

## **REMARKS**

[0003] Applicant respectfully requests reconsideration and allowance of all of the claims of the application. Claims 1-12, 14-21, 23-32 and 34-42 are presently pending. Claims amended herein are: 1, 3-7, 9-12, 14-20, 23-27, 29-32 and 34-39. Claims withdrawn or cancelled herein are: 13, 22 and 33. New claims added herein are: 40-42.

### **Statement of Substance of Interview**

[0004] The Examiner graciously talked with me—the undersigned representative for the Applicant—on February 12<sup>th</sup>, 2008. Applicant greatly appreciates the Examiner's willingness to talk. Such willingness is invaluable to both of us in our common goal of an expedited prosecution of this patent application.

[0005] During the interview, I discussed how the claims differed from the cited art, namely Chernock. Without conceding the propriety of the rejections and in the interest of expediting prosecution, I also proposed several possible clarifying amendments.

[0006] I understood the Examiner to tentatively agree that independent claims 1, 7, 12, 20, 27 and 32 would be patentable over the cited art if amended as discussed during the interview.

[0007] Applicant herein amends the claims in the manner discussed during the interview. Accordingly, Applicant submits that the pending claims

are allowable over the cited art of record for at least the reasons discussed during the interview.

### **Formal Request for an Interview**

[0008] If the Examiner's reply to this communication is anything other than allowance of all pending claims, then I formally request an interview with the Examiner. I encourage the Examiner to call me—the undersigned representative for the Applicant—so that we can talk about this matter so as to resolve any outstanding issues quickly and efficiently over the phone.

[0009] Please contact me or my assistant to schedule a date and time for a telephone interview that is most convenient for both of us. While email works great for us, I welcome your call to either of us as well. Our contact information may be found on the last page of this response.

### **Claim Amendments and Additions**

[0010] Without conceding the propriety of the rejections herein and in the interest of expediting prosecution, Applicant amends claims 1, 3-7, 9-12, 14-20, 23-27, 29-32 and 34-39 herein. Furthermore, Applicant adds new claims 40-42 herein.

[0011] The claim amendments and new claims are fully supported by the Application and therefore do not constitute new matter. Please see, for example, page 22 lines 16-17 and page 17 lines 1-5 of the specification.

## **Formal Matters**

### **Provisional Double-Patenting Rejections**

[0012] Based upon co-pending application 6,694,352, the Examiner rejects claims 1, 7, 12, 20, 27, and 32 on the grounds of non-statutory obviousness-type double-patenting. Accordingly, Applicant submits herewith a terminal disclaimer to overcome the provisional double-patenting rejection.

## **Substantive Matters**

### **Claim Rejections under §112 1<sup>ST</sup> ¶**

[0013] Claims 5, 6, 10, 11, 25, 26, 30 and 31 are rejected under 35 U.S.C. §112, 1<sup>st</sup> ¶. In light of the amendments presented herein, Applicant submits that these rejections are moot. Accordingly, Applicant asks the Examiner to withdraw these rejections.

### **Claim Rejections under § 102**

[0014] Claims 1-39 are rejected under 35 U.S.C. §102. In light of the amendments presented herein and the agreements reached during the above-discussed Examiner interview, Applicant submits that these rejections are moot. Accordingly, Applicant asks the Examiner to withdraw these rejections.

[0015] The Examiner's rejections are based upon **Chernock**: *Chernock, et al.*, US Patent No. 6,813,776 (issued November 2, 2004).

### **Overview of the Application**

[0016] The Application describes a technology for enabling users to register for notifications pertaining to electronic presentations of interest. Users are able to monitor many different electronic presentations without physically connecting to them for continuous play. Users can opt to monitor for the occurrence of an electronic presentation itself, or for events that might occur within various electronic presentations. The events can be monitored live through the use of meta-information that is generated as the electronic broadcast is about to be, or is being broadcast. The meta-information can be generated manually or automatically.

### **Cited Reference**

[0017] Chernock describes a technology for allowing a viewer to schedule a future event based on information which is embedded in a multimedia presentation, such as a promotional commercial. The viewer's equipment, on the basis of the viewer's preferences, causes the event to be scheduled at the appropriate time. These types of events include, scheduling the reception of a future television/radio/data download program, scheduling the play of audio or visual reminders for information of the imminent start of the scheduled program, scheduling the

recording of future program data imbedded in such a program on a recording device, and scheduling the downloading of data.

## **Anticipation Rejections**

[0018] Applicant submits that the anticipation rejections are not valid because, for each rejected claim, no single reference discloses each and every element of that rejected claim.<sup>1</sup> Furthermore, the elements disclosed in the single reference are not arranged in the manner recited by each rejected claim.<sup>2</sup>

### **Based upon Chernock**

[0019] The Examiner rejects claims 1-39 under 35 U.S.C. § 102(e) as being anticipated by Chernock. Applicant respectfully traverses the rejections of these claims. Based on the reasons given below, Applicant asks the Examiner to withdraw the rejection of these claims.

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<sup>1</sup> "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987); also see MPEP §2131.

<sup>2</sup> See *In re Bond*, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990).

Independent Claim 1

**[0020]** The Examiner indicates (Action, p. 5) the following with regard to this claim:

Regarding claims 1 and 20, Chernock teaches a method comprising:

receiving source information from at least one source of one or more television programs, the source information describing one or more broadcast events that can occur during a time period within which television programs are broadcast (abstract—reception of TV or data download program; col. 3, lines 57-63 and col. 4, lines 21-33);

evaluating the source information against user information (col. 4, line 64—col. 5, line 5—user information) that gives an indication of broadcast events that are of interest to a user (col. 2, lines 46-53; col. 5, lines 51-54); and

making one or more broadcast events available to one or more users if, as a result of said evaluating, it appears that the one or more users would be interested in said one or more broadcast events (col. 2, line 61—col. 3, line 8; col. 5, lines 51-54—determining a match corresponds to "if it appears that the one or more users would be interested...").

**[0021]** Applicant submits that Chernock does not anticipate this claim because it does not show or disclose at least the following elements as recited in this claim, as amended (with emphasis added):

- "sending a notification to one or more users if, as a result of said evaluating, it appears that the one or more users would be interested in

said one or more broadcast events, ***the notification being sent via one of: an email, a facsimile or a pager;***"

**[0022]** Instead, Chernock discloses that automatic scheduling of television programs can be implemented using a set-top-box. The set-top-box can perform the selection of a television program on the basis of user preference information previously stored in the set-top-box. Once a television program has been automatically scheduled, on-screen notifications or reminders are presented to the user indicating the television program which has been selected and scheduled for presentation. (Col 2 Lines 46-53 and Col 5 Lines 1-5) However, the notifications in Chernock are limited to on-screen notifications, and include options relating to graphical/audio, scheduling execution and automatic tuning. (Col 5 Lines 5-22)

**[0023]** Chernock gives no disclosure relating to sending a notification "via one of: an email, a facsimile or a pager;" as recited in claim 1.

**[0024]** Consequently, Chernock does not disclose all of the claimed elements and features of this claim. Accordingly, Applicant asks the Examiner to withdraw the rejection of this claim.



Independent Claims 7 and 12

**[0025]** Similarly, independent claims 7 and 12 each include features similar to the claimed feature as explained above with respect to claim 1. Thus independent claims 7 and 12 are allowable over the cited art for at least similar reasons as claim 1. Accordingly, Applicant asks the Examiner to withdraw the rejection of these claims.

Dependent Claims 2-6, 8-11 and 14-19

**[0026]** These claims ultimately depend upon independent claims 1, 7 and 12, respectively. As discussed above, claims 1, 7 and 12 are allowable. It is axiomatic that any dependent claim which depends from an allowable base claim is also allowable. Additionally, some or all of these claims may also be allowable for additional independent reasons.

Independent Claim 20

**[0027]** The Examiner indicates (Action, p. 5) the following with regard to this claim:

Regarding claims 1 and 20, Chernock teaches a method comprising:

- receiving source information from at least one source of one or more television programs, the source information describing one or more broadcast events that can occur during a time period within which television programs are broadcast (abstract—reception of TV or data download program; col. 3, lines 57-63 and col. 4, lines 21-33);
- evaluating the source information against user information (col. 4, line 64-col. 5, line 5—user information) that gives an indication of broadcast events that are of interest to a user (col. 2, lines 46-53; col. 5, lines 51-54); and
- making one or more broadcast events available to one or more users if, as a result of said evaluating, it appears that the one or more users would be interested in said one or more broadcast events (col. 2, line 61-col. 3, line 8; col. 5, lines 51-54—determining a match corresponds to “if it appears that the one or more users would be interested...”).

**[0028]** Applicant submits that Chernock does not anticipate this claim because it does not show or disclose at least the following elements as recited in this claim as amended (with emphasis added):

- “sending **a first notification** to one or more users if, as a result of said evaluating, it appears that the one or more users would be interested in a specified television program;”
- “**sending an additional notification** to the one or more users, indicating **the occurrence of one or more specific subjects**, wherein each of the one or more specific subjects **occurs during a time period within which the specified television program is broadcast;**”

**[0029]** Chernock discloses a system that provides scheduling of a broadcast event and corresponding automatic tuning and on-screen notifications. The disclosure specifies that the scheduled event is associated with a schedule time and the notification can include informing the user of the program starting. (Col 5 Lines 35-45 and Col 6 Line 13)

**[0030]** However, Chernock discloses no detail relating to “sending a first notification” and “sending an additional notification to the one or more users, indicating the occurrence of one or more specific subjects, wherein each of the one or more specific subjects occurs during a time period within which the specified television program is broadcast”. Chernock merely notifies the user of the beginning (scheduled time) of a program, and allows the user to either manually switch to the program, or have automatic tuning switch to the program.

[0031] Consequently, Chernock does not disclose all of the claimed elements and features of this claim. Accordingly, Applicant asks the Examiner to withdraw the rejection of this claim.

Independent Claims 27 and 32

[0032] Similarly, independent claims 27 and 32 include features that are similar to the claimed feature as explained above with respect to claim 20. Thus independent claims 27 and 32 are allowable over the cited art for at least similar reasons as claim 20. Accordingly, Applicant asks the Examiner to withdraw the rejection of these claims.

Dependent Claims 21, 23-26, 28-31 and 34-42

[0033] These claims ultimately depend upon independent claims 20, 27 and 32. As discussed above, claims 20, 27 and 32 are allowable. It is axiomatic that any dependent claim which depends from an allowable base claim is also allowable. Additionally, some or all of these claims may also be allowable for additional independent reasons.

**Dependent Claims**

[0034] In addition to its own merits, each dependent claim is allowable for the same reasons that its base claim is allowable. Applicant requests that the Examiner withdraw the rejection of each dependent claim where its base claim is allowable.

## **Conclusion**

**[0035]** All pending claims are in condition for allowance. Applicant respectfully requests reconsideration and prompt issuance of the application. If any issues remain that prevent issuance of this application, the **Examiner is urged to contact me before issuing a subsequent Action.** Please call/email me or my assistant at your convenience.

Respectfully Submitted,

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/Jacob Rohwer/

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